

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed February 4, 2005. Claims 1-28 are pending in this application. Claims 1-28 have been rejected by Examiner. As described below, Applicants believe that all pending claims are in condition for allowance and respectfully request reconsideration and favorable action in this case.

Section 103 Rejections

The Examiner rejects Claims 1-12 and 14-28 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,018,525 issued to Sucharczuk (“*Sucharczuk*”) in view of Applicants’ admitted prior art (*AAPA*) and either one of U.S. Patent No. 6,434,166 issued to Buckland et al., (“*Buckland*”) or 6,272,128 issued to Pierson Jr. (“*Pierson*”). Furthermore, the Examiner also rejects Claim 13 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,018,525 issued to Sucharczuk (“*Sucharczuk*”) in view of Applicants’ admitted prior art (*AAPA*), either one of U.S. Patent No. 6,434,166 issued to Buckland et al., (“*Buckland*”) or 6,272,128 issued to Pierson Jr. (“*Pierson*”), and U.S. Patent No. 6,243,382 issued to O’Neill et al. (“*O’Neill*”).

According to 35 U.S.C. §103(c), “Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.” Applicants hereby inform the Examiner that the present application and *Buckland* were, at the time the invention of the present application was made, owned by, or subject to an obligation of assignment to, Cisco Technology, Inc. Therefore, *Buckland* may not be used to reject the claims of the present application under 35 U.S.C. §103(a). Therefore, Applicants address below the rejection of the claims in light of the combination of *Sucharczuk*, the *AAPA*, and *Pierson* (and *O’Neill*, for Claim 13).

In order to establish a prima facie case of obviousness: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge available to one skilled in the art, to modify a reference or combine multiple references; (2) there must be a reasonable expectation of success; and (3) the prior art reference, or the combination of references, must teach or suggest all the claim limitations. *See* M.P.E.P. § 2143. Applicants respectfully argue that *Sucharczuk*, the *AAPA*, *Pierson* and *O'Neill*, whether considered alone or in combination, all fail to teach or suggest all the limitations of Claims 1-28. Therefore, a prima facie case of obviousness cannot be maintained.

Claims 1, 14, 17, and 23 are Allowable Over *Sucharczuk*, the *AAPA* and *Pierson*

Claim 1, as amended, recites “distributing the second components of the traffic streams between a defined set of the cells for in-band transmission of the second components in a payload of each of the cells, the second components being positioned at the beginning of the payload of each cell.” Claims 14, 17, and 23, as amended, recite similar, although not identical, limitations. Applicants respectfully disagree with this rejection.

First, there is no motivation to combine these references. The Examiner is attempting to modify *Sucharczuk* with *Pierson* to change the positioning of the CAS values disclosed in *Sucharczuk* (since the Examiner recognizes that *Sucharczuk* does not teach positioning the CAS values at the beginning of the payload of each cell). However, *Sucharczuk* teaches away (at several places in the reference) from removing CAS values from their position in association with the corresponding user information (data, voice, etc.) being transmitted. As examples, Applicants refer the Examiner to Column 2, lines 6-13, Column 3, lines 27-42, and Column 4, lines 12-19 of *Sucharczuk*. Because *Sucharczuk* clearly teaches away from any modification in which the CAS values are grouped at the beginning of the payload of a cell, *Sucharczuk* cannot be modified as suggested by the Examiner.

Furthermore, *Sucharczuk*, the *AAPA*, and *Pierson*, whether considered alone, or in combination, fail to disclose that the second components are positioned at the beginning of the payload of each cell, as recited in Claim 1, and similarly, although not identically, in Claims 14, 17, and 23. The Examiner asserts that this limitation is taught by *Pierson*.

Specifically, the Examiner says that this limitation is disclosed by the ATM “signaling” that is carried at the front of an ATM cell. However, this ATM “signaling” information is not reduced-rate second components that are *associated with* first components that are distributed through-out the ATM cells (even assuming that the payloads of the ATM cells of *Pierson* may include segmented first components of a traffic stream). As an example only, this ATM “signaling” information is not the same as CAS values. There is no relationship disclosed in any of the reference between the ATM signaling information and the recited first components. Furthermore, even if it were assumed for the sake of argument that the ATM “signaling” is the recited second component, this signaling is clearly *not* positioned in the *payload* of the cell, as required by the claim. Instead, this information is in the header of the ATM cell and thus is not transmitted in-band with any first components.

For at least these reasons, a *prima facie* case of obviousness cannot be maintained for Claims 1, 14, 17, and 23, as amended. Therefore, Applicants respectfully request reconsideration and allowance of Claims 1, 14, 17, and 23, as well as all claims that depend from these claims.

Claims 3, 19, and 25 are Allowable Over *Sucharczuk*, the *AAPA* and *Pierson*

In addition to the fact that Claims 3, 19, and 25 depend from Claims 1, 17, and 23, which are allowable for the reasons discussed above, these claims are also allowable because they contain additional limitations not disclosed in the cited references. For example, Claim 3 recites “segmenting the first component of each traffic stream into a fixed position in the successive cells.” Claims 19 and 25 recite similar, although not identical, limitations. The Examiner states that *Sucharczuk* discloses this limitation. (Office Action mailed 1/30/04, citing *Sucharczuk*, Col. 3, Lines 53+). However, as discussed above with respect to Claims 1, 14, 17, and 23, *Sucharczuk* discloses that CAS values are placed in the cell payload at 12 octet intervals and that the locations of the CAS values repeat only every 12 cells. (*Sucharczuk*, Col. 3, Line 50 – Col. 4, Line 2). Thus, because the CAS values are placed throughout the cell payload and the locations of the CAS values change in successive cells, the position of the data (i.e., the first component) must also vary within each successive cell to make room for variable positions of the CAS values. Therefore, *Sucharczuk* actually

teaches way from segmenting the first component of each traffic stream into a *fixed position in the successive cells*, as recited in Claim 3, and similarly, although not identically, in Claims 19 and 25.

For at least this additional reason, a prima facie case of obviousness cannot be maintained for Claims 3, 19, and 25. Therefore, Applicants respectfully request reconsideration and allowance of Claims 3, 19, and 25.

Claim 16 is Allowable Over *Sucharczuk*, the *AAPA* and *Pierson*

In addition to the fact that Claim 16 depends from Claim 14, which is allowable for the reasons discussed above, Claim 16 is allowable because it also contains additional limitations not disclosed in the cited references. For example, Claim 16 recites that the superframe contains 16 AAL cells. None of the cited references disclose this limitation. However, to fill the void in the prior art, the Examiner states that "the use of a 12 frame Superframe (SF) structure or a 24 frame Extended Superframe (ESF) structure is mentioned [in *Sucharczuk*], which would render obvious the use of a superframe which contains 16 AAL cells." (Office Action mailed 1/30/04, Page 5). Applicants respectfully remind the Examiner that such a broad and conclusory type rejection is improper for a number of reasons. If "common knowledge" or "well known" art is being relied on, Applicants respectfully request that a reference be provided in support of this position pursuant to M.P.E.P. § 2144.03. If personal knowledge is being relied on, Applicants respectfully request that an affidavit supporting such facts be provided pursuant to M.P.E.P. § 2144.03.

As disclosed in the present application, the use of a 16-cell superframe is advantageous because it allows a single superframe to be compliant with both North American and European data circuit terminating equipment. (Application, Page 12, Line 17 – Page 13, Line 3). In particular, European data circuit terminating equipment updates the CAS value once every 16 DS-0s. However, *Sucharczuk* is silent as to the use of its invention in compliance with European signaling protocols in this manner.

For at least this additional reason, a prima facie case of obviousness cannot be maintained for Claim 16. Therefore, Applicants respectfully request reconsideration and allowance of Claim 16.

Claim 13 is Allowable Over *Sucharczuk*, the *AAPA*, *Pierson* and *O'Neill*

Claim 13 is dependent from Claim 1, which is allowable for the reasons provided above. At least because Claim 13 depends from Claim 1, Applicants respectfully request reconsideration and allowance of Claim 13.

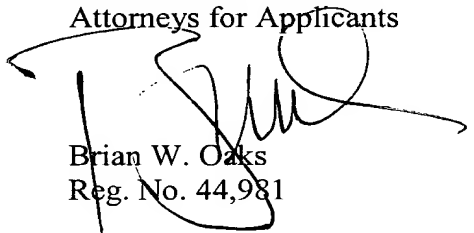
CONCLUSION

Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicants respectfully request full allowance of all pending claims.

If the Examiner feels that a telephone conference would advance prosecution of this Application in any manner, the Examiner is invited to contact Brian W. Oaks, Attorney for Applicants, at the Examiner's convenience at (214) 953-6986.

Although Applicants believe that no fees are due, the Commissioner is hereby authorized to charge additional fees or credit any overpayments to Deposit Account No. 02-0384 of Baker & Botts, L.L.P.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicants



Brian W. Oaks
Reg. No. 44,981

Date: May 2, 2005

Correspondence Address:

Customer Number:

05073